

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

APHIS. The Animal and Plant Health Inspection Service, United States Department of Agriculture.

Commercial shipment. A shipment containing fruits and vegetables that an inspector identifies as having been produced for sale and distribution in mass markets. Such identification will be based on a variety of indicators, including, but not limited to: quantity of produce, type of packaging, identification of grower or packing house on the packaging, and documents consigning the shipment to a wholesaler or retailer.

Country of origin. Country where the plants from which the plant products are derived were grown.

Cucurbits. Any plants in the family Cucurbitaceae.

Field. A plot of land with defined boundaries within a place of production on which a commodity is grown.

Fruits and vegetables. A commodity class for fresh parts of plants intended for consumption or processing and not for planting.

General permit. The authorization contained in § 319.56-2(b), (c), or (d) for any person to import the articles named in those paragraphs, in accordance with the requirements specified in those paragraphs, without being issued a specific written permit.

Import and importation. To move into, or the act of movement into, the territorial limits of the United States.

Inspector. Any individual authorized by the Administrator of APHIS or the Commissioner of the Bureau of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this subpart.

National plant protection organization (NPPO). Official service established by a government to discharge the functions specified by the International Plant Protection Convention.

Permit. A written or oral authorization, including by electronic methods, to import fruits or vegetables in ac-

cordance with the regulations in this subpart.

Place of production. Any premises or collection of fields operated as a single production or farming unit. This may include a production site that is separately managed for phytosanitary purposes.

Plant debris. Detached leaves, twigs, or other portions of plants, or plant litter or rubbish as distinguished from approved parts of clean fruits and vegetables, or other commercial articles.

Port of first arrival. The first point of entry into the United States where the consignment is offered for entry.

Production site. A defined portion of a place of production utilized for the production of a commodity that is managed separately for phytosanitary purposes. This may include the entire place of production or portions of it. Examples of portions of places of production are a defined orchard, grove, field, or premises.

Quarantine pest. A pest of potential economic importance to the area endangered by it and not yet present there, or present but not widely distributed there and being officially controlled.

Specific written permit. A written or electronic authorization issued by APHIS to a person to import a particular fruit or vegetable from a specified country in accordance with the requirements of this subpart and any additional conditions that may be assigned.

United States. All of the States of the United States, the Commonwealth of Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, and any other territory or possession of the United States.

[24 FR 10788, Dec. 29, 1959, as amended at 52 FR 29370, Aug. 7, 1987; 57 FR 54489, Nov. 19, 1992; 68 FR 37915, June 25, 2003; 69 FR 65059, Nov. 10, 2004; 70 FR 72886, Dec. 8, 2005; 71 FR 75654, Dec. 18, 2006]

§ 319.56-2 Restrictions on entry of fruits and vegetables.

(a) All importations of fruits and vegetables must be free from plant debris, as defined in § 319.56-1.

(b) *General permit for dried, cured, or processed fruits and vegetables.* Dried, cured, or processed fruits and vegetables (except frozen fruits and vegetables), including cured figs and dates, raisins, nuts, and dried beans and peas, may be imported without permit or other compliance with the regulations in this subpart: *Provided*, That any such articles may be made subject to entry only under permit and on compliance with the safeguards to be prescribed therein, when it shall be determined by the Secretary of Agriculture that the condition of drying, curing, or processing to which they have been subjected may not entirely eliminate risk. Such determination with respect to any such articles shall become effective after due notice.

(c) *General permit for fruits and vegetables grown in Canada.* Fruits and vegetables grown in Canada may be imported into the United States without restriction under this subpart; provided, that:

(1) Consignments of *Allium* spp. consisting of the whole plant or above ground parts must be accompanied by a phytosanitary certificate issued by the NPPO of Canada with an additional declaration stating that the articles are free from *Acrolepiopsis assectella* (Zeller).

(2) Potatoes from Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road are prohibited importation into the United States in accordance with § 319.37-2 of this part.

(d) *General permit for fruits and vegetables grown in the British Virgin Islands.* Fruits and vegetables grown in the British Virgin Islands may be imported into the U.S. Virgin Islands without further permit other than the authorization contained in this paragraph but subject to the requirements of paragraph (a) of this section, and of §§ 319.56-5, 319.56-6, and 319.56-7, except that:

(1) Such fruits and vegetables are exempted from the notice of arrival requirements of § 319.56-5 when an inspector finds that equivalent information is obtainable from the U.S. Customs Service; and

(2) Mangoes grown in the British Virgin Islands are prohibited entry into the U.S. Virgin Islands.

(e) Any other fruit or vegetable, except those restricted to certain countries and districts by special quarantine,¹ other orders, or provisions of the regulations in this subpart² may be imported from any country under a permit issued in accordance with this subpart and upon compliance with the regulations in this subpart, at the ports authorized in the permit, if the U.S. Department of Agriculture, after reviewing evidence presented to it, is satisfied that the fruit or vegetable either:

(1) Is not attacked in the country of origin by quarantine pests;

(2) Has been treated or is to be treated for all quarantine pests in the country of origin, in accordance with conditions and procedures that may be prescribed by the Administrator;

(3) Is imported from a definite area or district in the country of origin that is free from all quarantine pests that attack the fruit or vegetable and its importation is in compliance with the criteria of paragraph (f) of this section; or

(4) Is imported from a definite area or district of the country of origin that is free from quarantine pests that attack the fruit or vegetable and the criteria of paragraph (f) of this section are met with regard to those quarantine pests, provided that all other quarantine pests that attack the fruit or vegetable in the area or district of the country of origin have been eliminated from the fruit or vegetable by treatment or any other procedures that may be prescribed by the Administrator.

(f) Before the Administrator may authorize importation of a fruit or vegetable under paragraphs (e)(3) or (4) of this section, he or she must determine

¹The importation of citrus fruits into the United States from eastern and southeastern Asia and certain other areas is restricted by the Citrus Fruit Quarantine, § 319.28.

²Fruits and vegetables from designated countries or localities that are subject to specific import requirements prescribed elsewhere in this subpart are not subject to the regulations in paragraph (e) of this section unless specified otherwise. Such fruits and vegetables are, however, subject to all other general requirements contained in other sections of this subpart.

that the fruit or vegetable is being imported from an area that is free of the pest or pests in accordance with the criteria for establishing freedom found in International Standard for Phytosanitary Measures Publication No. 4, "Requirements for the Establishment of Pest Free Areas." The international standard was established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization and is incorporated by reference in §300.5 of this chapter. APHIS must approve the survey protocol used to determine pest-free status, and pest-free areas are subject to audit by APHIS to verify their status. When used to authorize importation under paragraph (e)(3) of this section, the criteria must be applied to all quarantine pests that attack the fruit or vegetable; when used to authorize importation under paragraph (e)(4) of this section, the criteria must be applied to those particular quarantine pests from which the area or district is to be considered free.

(g) Each box of fruit or vegetables imported into the United States in accordance with paragraphs (e) or (f) of this section must be safeguarded from infestation while in transit to the United States through any area that has not been designated as free from quarantine pests that attack the fruit or vegetable. Each box of fruit or vegetables imported into the United States in accordance with paragraphs (e)(3) or (4) and (f) of this section must be clearly labeled with:

(1) The name of the orchard or grove of origin, or the name of the grower, and

(2) The name of the municipality and State in which it was produced, and

(3) The type and amount of fruit it contains.

(h) The Administrator has determined that the following areas in Mexico meet the criteria of paragraphs (e) and (f) of this section with regard to the plant pests *Ceratitis capitata*, *Anastrepha ludens*, *A. serpentina*, *A. obliqua*, and *A. fraterculus*: Comondu, La Paz, Loreto, Los Cabos, and Mulegé in the State of Baja California Sur; the municipalities of Bachiniva, Casas Grandes, Cuahutemoc, Guerrero, Namiquipa, and Nuevo Casas Grandes

in the State of Chihuahua; the municipalities of Ahome, Choix, El Fuerte, Guasave, and Sinaloa de Leyva in the State of Sinaloa; and the municipalities of Altar, Atil, Bacum, Benito Juárez, Caborca, Cajeme, Carbo, Empalme, Etchojoa, Guaymas, Hermosillo, Huatabampo, Navojoa, Pitiquito, Plutarco Elias Calles, Puerto Penasco, San Luis Rio Colorado, San Miguel, and San Ignacio Rio Muerto in the State of Sonora. Fruits and vegetables otherwise eligible for importation under this subpart may be imported from these areas without treatment for the pests named in this paragraph.

(i) Pending development of adequate treating facilities in Guam, fruits and vegetables that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a U.S. port of arrival where such treating facilities are available.

(j) The Administrator has determined that all Districts in Belize, all provinces in Chile except Arica, and the Department of Petén in Guatemala meet the criteria of paragraphs (e) and (f) of this section with regard to the insect pest Mediterranean fruit fly (Medfly) (*Ceratitis capitata* [Wiedemann]). Also, the Patagonia region of Argentina, including those areas along the valleys of the Rio Colorado and Rio Negro rivers and also including the provinces of Neuquen, Rio Negro, Chubut, Santa Cruz, and Tierra del Fuego, has been determined to meet the criteria of paragraphs (e) and (f) of this section with regard to Medfly and *Anastrepha* spp. fruit flies. Fruits and vegetables otherwise eligible for importation under this subpart may be imported from these areas without treatment for the specified pests.

(k) Any fruit or vegetable that is required by this subpart to be treated or subjected to other growing or inspection requirements to control one or more of the plant pests listed in §305.31(a) of this chapter as a condition

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of entry into the United States may instead be treated by irradiation in accordance with part 305 of this chapter.

(Approved by the Office of Management and Budget under control numbers 0579-0049 and 0579-0280)

[24 FR 10788, Dec. 29, 1959, as amended at 52 FR 29370, Aug. 7, 1987; 53 FR 10057, Mar. 29, 1988; 53 FR 27956, July 26, 1988; 54 FR 12873, Mar. 29, 1989; 56 FR 1731, Jan. 17, 1991; 56 FR 10790, Mar. 14, 1991; 57 FR 10976, Apr. 1, 1992; 58 FR 43497, Aug. 17, 1993; 58 FR 69179, Dec. 30, 1993; 59 FR 9382, Feb. 28, 1994; 62 FR 50235, 50238, Sept. 25, 1997; 64 FR 2994, Jan. 20, 1999; 66 FR 45158, Aug. 28, 2001; 67 FR 65029, Oct. 23, 2002; 68 FR 2684, Jan. 21, 2003; 68 FR 37916, June 25, 2003; 70 FR 33325, June 7, 2005; 70 FR 72887, Dec. 8, 2005; 71 FR 4464, Jan. 27, 2006; 71 FR 75654, Dec. 18, 2006]

EFFECTIVE DATE NOTE: At 71 FR 50328, Aug. 25, 2006, § 319.56-2 was amended in paragraph (c) by adding the words “, except that they are subject to the inspection and other requirements in § 319.56-6” after the word “subpart”, effective Nov. 24, 2006. At 71 FR 67436, Nov. 22, 2006, the effective date was delayed until Mar. 1, 2007.

§ 319.56-2a Permits required for entry of chestnuts and acorns and certain coconuts.

It has been determined that the drying and processing of chestnuts and acorns, and of coconuts imported into Guam from the Trust Territory, may not entirely eliminate risk of spread of injurious insects. Therefore, notice is hereby given that chestnuts and acorns of all varieties and species may be imported into any part of the United States from any foreign country and coconuts may be imported into Guam from the Trust Territory, only under permit and upon compliance with the safeguards prescribed therein pursuant to § 319.56-2.

§ 319.56-2b Administrative instructions; conditions governing the entry of acorns and chestnuts.

(a) *Countries other than Canada and Mexico.* Except for importations of acorns and chestnuts grown in and shipped from Canada and Mexico, acorns and chestnuts are permitted entry into the United States under permit, for purposes other than propagation, under the provisions of § 319.56 as follows:

(1) *Condition of entry.* Notwithstanding § 319.56-2(e) (1) and (2), all

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shipments of acorns and chestnuts are required to be treated as a condition of entry. Fumigation with methyl bromide in accordance with procedures described in this section is effective against the chestnut and acorn weevils, *Curculio elephas* (Cyllenhal) and *C. nucum* Linnaeus; the nut fruit tortrix, et al., *Laspeyresia splendana* (Hubner), *Laspeyresia* spp., and *Hemimene juliana* (Curtis); and other insect pests of chestnuts and acorns. Accordingly, this treatment is approved as a condition of entry in connection with the issuance of permits under § 319.56-3 for the importation of chestnuts and acorns from any country except Canada and Mexico.

(2) *Ports of entry.* Acorns and chestnuts to be offered for entry may be shipped from the country of origin to United States ports which are named in the permit.

(3) *Approved fumigation.* The approved treatment shall consist of fumigation with methyl bromide. The acorns and chestnuts may be fumigated in vacuum or normal atmospheric chambers, van containers, or tarpaulins that have been approved for that purpose by the Plant Protection and Quarantine Programs. When the fumigation is carried out under tarpaulins or in van containers, it must be accomplished in a manner satisfactory to the inspector by insuring adequate air and commodity temperatures, and proper volatilization, distribution, and concentration of the fumigant. Fumigation with methyl bromide shall be in accordance with the following schedules:

(i) In chamber at normal atmospheric pressure (NAP):

Temperature (°F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
90-96	4	3
80-89	4	4
70-79	5	4
60-69	5	5
50-59	6	5
40-49	6	6

(ii) In chamber at 26" vacuum:

Temperature (°F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
80-96	3	2
70-79	4	2